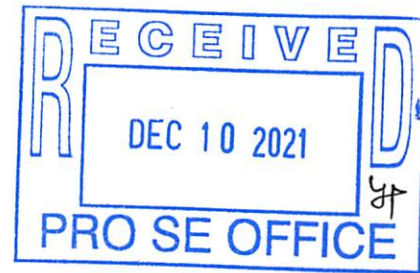


ORIGINAL

Chris Mone
Plaintiff *in Propria Persona*
83 Windsor Road
Staten Island, NY 10314
917-699-3654
c.mone@aol.com



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
225 Cadman Plaza East, Brooklyn, NY 11201**

CV 21 - 69 14

CHRIS MONE
PLAINTIFF

v.

NEW YORK STATE
UNIFIED COURT SYSTEM
DEFENDANT

CASE NO.

GUJARATI, J.

BLOOM, M.J.

**COUNT I – COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
UNDER THE AMERICANS WITH DISABILITIES ACT**

Plaintiff, Chris Mone, sues the defendant, NEW YORK STATE UNIFIED COURT SYSTEM, for discrimination on the basis of disability, and for prohibited actions taken on the basis of this disability under the “regarded as” prong; and for declaratory and injunctive relief under Title I of the Americans with Disabilities Act as implemented under 29 CFR Part 1630, *et sequitur*, and alleges the following:

JURISDICTION AND VENUE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. This court has original and exclusive jurisdiction under Title I of the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008; 42 U.S.C. §12101 and 42 U.S.C. §12112(a), (b) and (d)(4) as it pertains to “Discrimination”; as implemented by 29 CFR Part 1630.14(b)(3), (c) & (d) as it pertains to adverse employment actions, employers and medical examinations and interventions.

2. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. §1391(b)(2) because Plaintiff resides in this District and a substantial part of the events or omissions giving rise to the claims occurred in this District.

3. The incidents and facts giving rise to this complaint have occurred within the last one hundred eighty days. The plaintiff has commenced a complaint against the defendant with the Equal Opportunity Employment Commission (EEOC) on or about the date of September 20, 2021. The plaintiff has received a Right to Sue letter, a true and correct copy is attached in Exhibit A.

PARTIES

4. Plaintiff, Chris Mone, resides in Richmond County, New York at the address of 83 Windsor Road, Staten Island, New York and is a qualified individual with a disability within the meaning of the ADA. The plaintiff is an employee of the defendant, which is a “covered entity” within the meaning of the Act.

5. The defendant’s principal place of business is located at 25 Beaver Street, New York, New York.

PLAIN STATEMENT

Defendant discriminated against the plaintiff based upon disability. When the plaintiff objected, the defendant sought to impose accommodations; including but not limited to, medical examinations, mask-wearing and isolation, without first conducting an individualized assessment to determine if he was a direct threat.

STATEMENTS OF FACT

6. The plaintiff is regarded as having a disability by the defendant.

7. The plaintiff therefore has a disability under the protection of the ADA.

8. The plaintiff was an employee of the defendant and is a qualified individual with a disability.

9. The plaintiff does not have an impairment but is being treated by the defendant as if plaintiff has an impairment.

10. The reactions and perceptions of the defendant and its employees while interacting with or working with the plaintiff have demonstrated the defendant's perception that the plaintiff has an impairment of the immune system and an impairment of the respiratory system.

11. The plaintiff duly noticed the defendant that he was claiming protection under the ADA because of being regarded as disabled.

12. The defendant took adverse employment actions because of perceiving the plaintiff as impaired.

13. The defendant has made a record of plaintiff's disability by misclassifying the plaintiff as having an impairment of the immune system and an impairment of the respiratory system.

1 **14.** The plaintiff may proceed under the “regarded as” prong and this court
2 has jurisdiction under the “regarded as” prong of the ADA.

3 **15.** The complaint thereby satisfies the criteria for stating a *prima facie* cause
4 of action for these reasons, along with the fact that the defendant has made a
5 record of such disability as further alleged herein.

6 **16.** The ADA also protects individuals such as the plaintiff for whom
7 submitting to certain accommodation measures would create impairments. The
8 accommodations include, but are not limited to, taking experimental injections
9 under Emergency Use Authorization (EUA) which are being promoted as
10 “vaccines” but which are not legally vaccines; submitting to repetitive, non-job-
11 related medical examinations (nasal tissue testing, temperature checks); being
12 placed under isolation, segregation and quarantine without due process; using
13 medical devices for mitigation measures¹ (masks); disclosing plaintiff’s medical
14 records and history for non-job-related matters and participating in clinical trials
15 and epidemiological experiments as a condition of employment.

16 **17.** In fact, defendant’s “COVID-19” policies impair the plaintiff from
17 performing his employment duties because the defendant will not permit
18 plaintiff to do his job without first submitting to the defendant’s
19 accommodations (“mitigation measures”).

20 **18.** Defendant’s policies also violate the plaintiff rights to medical privacy and
21 informed consent.

22 **19.** Defendant and its policies failed to advise the plaintiff of the absolute
23 risks and absolute benefits for accepting the accommodation of taking
24 experimental injections, under EUA guidelines, for a “contagious disease” that
25 the defendant regards the plaintiff as having.
26
27
28

1 Section 201(h) Food, Drug & Cosmetic Act

1 **20.** Defendant also failed to advise the plaintiff of his right to accept or reject
2 such accommodation as it falls under an “emergency use authorization”
3 period.

4 **21.** Additionally, defendant failed to advise the plaintiff that no vaccines,
5 which have been approved by the Food & Drug Administration, are
6 commercially available to the plaintiff, or are yet in production.

7 **22.** Additionally, the so-called “vaccines” that are being promoted as
8 vaccines do not actually prevent transmission or infection of any contagious
9 disease, specifically regarding the so-called “COVID-19” or “SarsCOV2”
10 purported “diseases”.
11

12 **23.** Additionally the employer has failed to identify or propose other
13 accommodations which do not require medical devices or injections.

14 **24.** The defendant’s responses to the requests made by the plaintiff to cease
15 the discrimination and harassment were in fact non-responsive, a true and
16 correct copy of each is included with Exhibit A.
17

18 **25.** A “pandemic” or “emergency” is not a legal defense for violating rights.
19 The court should be advised that the defendant believes that its legal violations
20 are justified by claiming there is a “pandemic”. This is not a legal defense, just
21 as ignorance of the law is not a legal defense.

22 **26.** The plaintiff requests that the court take judicial notice of the official
23 mortality rates of the State of New York and the United States for the years
24 from 2017, 2018, 2019 and 2020 in which the standard deviation is zero, the
25 very definition of no verifiable “pandemic”.
26

27 **27.** No laws have changed that would create either a new duty of care or a
28 new insurable risk for the defendant; and no new laws have created any new

1 legal duty or obligation for an employer to violate the medical privacy rights of
2 anyone.

3 **28.** Certain employees of the defendant present with symptoms of mental
4 illness. The court should also note that the defendant's employees: Carolyn
5 Grimaldi, the Director of HR, Kelvin Smartt in Human Resources, along with
6 Eva Moy in Office of the Managing Inspector General for Bias Matters and also
7 Janet Difiore, Nancy Barry, Lawrence Marks and Justin Barry, each present
8 with symptoms of Factitious Disorder by Proxy as defined in the Diagnostic
9 and Statistical Manual for Mental Health, Fifth Edition. People with this
10 disorder falsely claim another person as sick, injured or having problems
11 functioning, claiming that medical attention is needed. It appears that these
12 employees have each made such a determination of the plaintiff and engaged
13 in conduct which has given rise to this complaint and each may not be
14 competent to serve in their official capacity because of this mental illness.

15
16 **29.** The plaintiff has been employed continuously by the defendant for
17 approximately twenty years.

18 **30.** In September of 2021, the defendant began regarding the plaintiff as
19 having a disability of an impaired immune system and an impaired respiratory
20 system; and began responding to the plaintiff as if she was carrying a
21 contagious disease.

22
23 **31.** Defendant has never conducted the required individualized assessment
24 to determine whether or not the plaintiff is or was ever a direct threat to
25 anyone.

1 **32.** On September 28, 2021 the defendant terminated the plaintiff's
2 employment for attempting to exercise and enjoy his rights that are protected
3 by the Americans with Disabilities Act.

4 **33.** The defendant had expressed to the plaintiff that regarding these
5 accommodations, the plaintiff's right to informed consent was not violated
6 because he could quit at any time. This clearly violates 29 CFR Part
7 1630.9(d).
8

9 **34.** Plaintiff received a memo dated September 1, 2021 from Nancy Barry,
10 (Chief of Operations) and Justin Barry, (Chief of Administration) titled
11 "Mandatory Testing Program". A true and correct copy is included as part of
12 Exhibit A.

13 **35.** This memo instructed plaintiff to undertake accommodations for his
14 perceived impairments such as getting tested weekly and undertaking an
15 experimental injection process.
16

17 **36.** Plaintiff was instructed to enter his "vaccination status" on the Sharepoint
18 web portal and was informed that other employees would be aware of his
19 status via the UCS Employee web portal. The Memo threatens plaintiff with
20 the retaliation of not being allowed to work if he does not submit to this policy.

21 **37.** Defendant's memo demonstrated the defendant's perception that the
22 plaintiff has an impairment of the immune system and an impairment of the
23 respiratory system and considers the plaintiff as a potential or actual source of
24 a contagious disease without any individualized assessment establishing that
25 plaintiff actually needs any accommodations or is a direct threat; and that
26 defendant is taking adverse employment actions because of this perceived
27 disability.
28

1 **38.** On September 8, 2021, the plaintiff sent a letter to Lawrence Marks,
2 (Deputy Chief Judge) notifying Marks that the new policy was both
3 discriminatory and had not included the Court Officers Union in any policy-
4 making decisions.

5 **39.** On September 10, 2021, Plaintiff received a "Vaccine mandate" memo
6 from Nancy Barry, (Chief of Operations) and Justin Barry (Chief of
7 Administration) which stated that all employees must submit to the
8 accommodation of taking intravenous medication, the so-called "COVID-19
9 Vaccination", by September 27, 2021 or their employment would be at risk, and
10 non-compliance would likely lead to termination.

11 **40.** In addition, defendant is clearly classifying employees by injection status,
12 making a record of this perceived condition and threatening adverse
13 employment actions against employees who have the condition of being
14 unvaccinated.

15 **41.** Defendant's policies also violate the plaintiff rights to medical privacy and
16 informed consent.

17 **42.** Defendant's policies fail to advise the plaintiff of the risks and benefits for
18 accepting the accommodation of taking injections for the contagious disease
19 that the defendant regards the plaintiff as having or potentially having.

20 **43.** Defendant fails to advise the plaintiff of his right to accept or reject such
21 accommodation as it falls under an "emergency use authorization" period.

22 **44.** Additionally, defendant fails to advise the plaintiff that no vaccines have
23 been approved by the Food & Drug Administration which are commercially
24 available to the plaintiff, or are yet in production.

1 **45.** Additionally, the injections which are being promoted as vaccines do not
2 prevent transmission or infection of any contagious disease, specifically
3 regarding the so-called "COVID-19" or "SARS-Cov2" purported "diseases".

4 **46.** The same day the plaintiff responded to this memo by emailing and
5 mailing a letter plaintiff titled "Notice of Employment Discrimination and
6 Retaliation Based Upon Disability" addressed to Janet Difiore (Chief Judge),
7 Lawrence Marks (Chief Administrative Judge), Justin Barry (Chief of
8 Administration) and Nancy Barry (Chief of Operations) which asked them to
9 address the plaintiff's request for due process and concerns regarding
10 discrimination based on a perceived disability.

11 **47.** Plaintiff notified the defendant that he was documenting the
12 discrimination; and encouraged Defendant to review the NY Benchbook Guide
13 compilation of Public Health laws and the due process they require hoping to
14 draw their attention to the requirement for an actual medical diagnosis prior to
15 prescribing injections and mitigation measures. No response was given by
16 any one of these agents. Some of these employees are judges of the court
17 and thus have higher expectations of knowing the law. Plaintiff also emailed a
18 copy of this letter to his Union President, Dennis Quirk, of the New York State
19 Court Officers Association.
20

21 **48.** Plaintiff next attempted to find a resolution via employees in Human
22 Resources and the Office of the Managing Inspector General for Bias Matters
23 (OMIGBM). Plaintiff asked Carolyn Grimaldi, Human Resources and Eva Moy
24 OMIGBM to open files to document the discrimination, process his intake,
25 present questions to the defendant and investigate the plaintiff's discrimination
26 claims. Both agents refused to open a file for his case or do an intake. Eva
27 Moy claimed she had "no jurisdiction" to process discrimination claims and
28

1 stopped responding to his emails; Carolyn Grimaldi refused to process his
2 claim and told plaintiff not to contact her anymore. She told plaintiff to contact
3 Kelvin Smartt, HR Administrator, but Smartt also refused to respond to
4 plaintiff's request for an intake.

5 **49.** On September 20, 2021, plaintiff filed a Charge of Discrimination and
6 Harassment with the EEOC via email and certified mail.

7
8 **50.** On September 28, 2021, Plaintiff reported to work at 18 Richmond
9 Terrace, New York and Plaintiff was handed a letter by Lieutenant John Marsh,
10 stating that Plaintiff was "unfit to serve", "non-compliant" and must leave the
11 premises immediately. Plaintiff was barred from returning unless he received
12 the so-called "COVID-19 vaccine" accommodation despite the fact that this
13 specific product is actually not commercially available at this time and is not
14 technically a vaccine. (Comirnaty is not in production and all injections under
15 EUA are experimental and cannot be required by law.)

16 **51.** Despite defendant's obfuscation, the plaintiff was actually terminated for
17 the physical condition of being "unvaccinated" as there is no end-date when
18 the defendant will not regard plaintiff's "unvaccinated" status as warranting
19 termination.
20

21 **52.** Despite being labeled as "non-compliant" plaintiff did send timely notices
22 to the defendant that he is both fit for service and has complied with all
23 requests for response.

24 **53.** On September 29, 2021, in another attempt to avoid being deemed "non-
25 compliant" or "unfit for service" plaintiff emailed Chief of Public Safety Michael
26 Magliano, Captain John Bonanno, Janet Difiore, Lawrence Marks, Justin Barry,
27 Nancy Barry, Kelvin Smartt, and Eva Moy a copy of a notice titled "Invocation
28

1 of Rights under the Americans with Disabilities Act". Plaintiff claimed his right
2 of informed consent, his right of refusal under EUA and his rights under the
3 ADA as overriding any of defendant's demands to comply with its
4 discriminatory policy; and plaintiff claimed he answered every request for
5 responses in a timely fashion.

6 **54.** Plaintiff does not claim a medical or religious exemption; he claimed his
7 rights under the ADA to decline accommodations and a discriminatory, thus
8 prohibited, policy. The fact that defendant does not want to recognize these
9 rights does not make plaintiff non-compliant or unresponsive. In fact,
10 defendant is in violation for interfering with plaintiff's rights under the ADA.

11 **55.** On October 4, 202, the New York State Court Officer Association sues
12 and is granted a temporary restraining order effectively putting the office of
13 court administrations mandate on hold until a hearing on Thursday October 14,
14 2021.

15 **56.** Plaintiff is able to report to work October 5, 2021 after being barred, and
16 physically restrained under threat of removal, from the premises since
17 September 28, 2021.

18 **57.** On October 7, 2021 plaintiff's documented back injury flared-up. He
19 requested and received sick leave.

20 **58.** Plaintiff contacts the EEOC to confirm that his case is being processed.
21 He learns that Robert Rullan, Investigator has sent Eva Moy communications
22 from his office. This shows that Eva Moy is, despite her denial to plaintiff, the
23 proper agent to handle discrimination matters. In a document, Rullan falsely
24 claims that he spoke on the phone with the plaintiff and dismissed plaintiff's
25 claim.
26
27
28

1 **59.** Plaintiff emails Rullan to correct Rullan's false statement. Rullan calls
2 and apologizes for his false statement and says he will send a "Right to Sue"
3 letter.

4 **60.** On October 25, 2021, the letter arrives and it has an incorrect
5 determination listed. Plaintiff quickly emails Judy Keenan (Director), Jeffery
6 Bernstein (EEOC attorney) and copies Rullan asking for an investigation into
7 Rullan's determination, a review of his work papers and legal conclusions as
8 Rullan does not seem to understand the "regarded as" prong. Plaintiff included
9 a pertinent definition of "regarded as" from the ADA.org website which states:
10 "Does not have any impairment, but is treated by an entity as having an
11 impairment."
12

13 **61.** On October 27, 2021, Robert Rullan called the plaintiff and stated that he
14 will correct the determination letter and send the plaintiff a revised "Right to
15 Sue" letter. The EEOC closes plaintiff's case without any investigation.

16 **62.** Plaintiff sends another letter to Captain Bonnano, Kelvin Smartt, Eva
17 Moy and Robert Rullan which is titled "Notice of Timely Response to
18 Retaliation of Being Declared Unfit to Serve and/or Non-compliant Based on
19 Disability".
20

21 **63.** Plaintiff again states that he has responded in a timely fashion to every
22 request for response to the injection survey. Plaintiff states he simply cannot
23 respond using the proposed form letter because it only provides options for
24 claiming a medical or religious exemption which plaintiff considers interference
25 with his rights under the ADA.

26 **64.** Plaintiff states he objects to the injections on the basis of rights protected
27 by the ADA because defendant is regarding him as disabled.
28

1 **65.** Plaintiff asks Kelvin Smartt to enter plaintiff's objection on the online
2 portal system for him because the plaintiff is unable to do so. Plaintiff states
3 that he is fit for work, has complied with all requests for information about his
4 injection status and has explained why he declines injection.

5 **66.** Plaintiff receives no response from any of the defendant's agents.

6 **67.** The defendant has a duty of care to aid and encourage the plaintiff in
7 exercising and enjoying his rights under the ADA. The defendant has thereby
8 neglected its duty of care.
9

10 **68.** Defendant's new policies are illegal because they are discriminatory and
11 constitute adverse employment actions.

12 **69.** Defendant has used policies and procedures that are discriminatory,
13 harassing, retaliatory, intimidating, threatening, coercive. The policies interfere
14 with ADA rights and constitute adverse employment actions and this is
15 prohibited under the ADA.
16

17 **70.** Specifically, the defendant has failed to ensure the equal access or
18 accessibility of the premises where the plaintiff is assigned to work. The
19 plaintiff has thereby been prevented from enjoying equal access and the
20 benefits of employment enjoyed by other employees.

21 **71.** The defendant continued without cessation to discriminate against the
22 plaintiff based upon disability as demonstrated by the communications sent to
23 the plaintiff by the defendant. All written communications are attached as
24 Exhibit A.

25 **72.** Such discrimination persists notwithstanding the existence of readily
26 available, well-established, accommodations, including, but not limited to
27 refraining from engaging with the plaintiff in any conversation pertaining to the
28

1 application of such mitigation measures and/or allowing the plaintiff to work in
2 a position that would eliminate the need for the accommodation measures
3 offered by the defendant.

4 **EUA Medical Interventions and Clinical Trials**

5 **73.** The defendant has failed or refused to advise the plaintiff of the absolute
6 risks or absolute benefits of such interventions and failed or refused to advise
7 the plaintiff that he has a choice to accept or refuse such interventions (EUA
8 injections, masking, submitting tissue samples) as set forth in 21 USC
9 §360bbb-3 *et seq.*

10 **74.** Defendant also failed or refused to advise the plaintiff of his right to
11 accept or reject such accommodation as it falls under an “emergency use
12 authorization” period and the plaintiff is not required to participate in clinical
13 trials, studies or epidemiological experiments as a condition for employment or
14 as an accommodation measure.

15 **75.** Additionally, defendant fails to advise the plaintiff that no vaccines that
16 have been **approved** by the Food & Drug Administration are commercially
17 available to the plaintiff, or are yet in production.

18 **76.** Additionally, the so-called vaccines that are being promoted as vaccines
19 do not prevent transmission or infection of any contagious disease, specifically
20 regarding the so-called “COVID-19” or “SarsCOV2” purported “diseases”.

21 **77.** Additionally, the employer has not proven that there are no other
22 accommodations available which do not require injections or medical devices.

23 **78.** Since defendant is unfortunately attempting to enforce policies even the
24 federal government cannot, it naturally falls on the employer to assume the
25 responsibilities of satisfying informed consent and rights at all levels.
26
27
28

FDA defines masks when used for mitigation purposes as a medical device.

79. Plaintiff requests that this court take judicial notice of Section 201(h) of the Food, Drug and Cosmetic Act and its Final Guidance titled, "Classification of Products as Drugs and Devices & Additional Product Classification Issues: Guidance for Industry and FDA Staff", published in September of 2017, in which the Food & Drug Administration **defines** wearing a mask for mitigation purposes as a medical device and the application of a medical device or contrivance. A true and correct copy of this is included as Exhibit B.

80. Plaintiff further requests judicial notice of the fact that the Food & Drug administration has never **approved** wearing such face masks, but only "authorized" them without any supporting medical or clinical data establishing any medical necessity or efficacy for wearing such contrivances.

ALLEGATIONS OF DEFENDANT'S VIOLATIONS OF TITLE I OF THE ADA, 42 U.S.C. §12101 *et sequitur*.

81. Plaintiff re-alleges each of the statements of fact herein and the allegations contained in the preceding paragraphs and the plaintiff's supporting affidavit which is also re-alleged and incorporated herein by reference.

82. Title I of the ADA prohibits employment discrimination on the basis of disability in all aspects of employment.

§ 1630.4 Discrimination prohibited.

(a) In general - (1) It is unlawful for a covered entity to discriminate on the basis of disability against a qualified individual in regard to:

(i) Recruitment, advertising, and job application procedures;

1 (ii) Hiring, upgrading, promotion, award of tenure, demotion,
2 transfer, layoff, termination, right of return from layoff, and
3 rehiring;

4 (iii) Rates of pay or any other form of compensation and changes
5 in compensation;

6 (iv) Job assignments, job classifications, organizational
7 structures, position descriptions, lines of progression, and
8 seniority lists;

9 (v) Leaves of absence, sick leave, or any other leave;

10 (vi) Fringe benefits available by virtue of employment, whether or
11 not administered by the covered entity;

12 (vii) Selection and financial support for training, including:
13 apprenticeships, professional meetings, conferences and other
14 related activities, and selection for leaves of absence to pursue
15 training;

16 (viii) Activities sponsored by a covered entity, including social
17 and recreational programs; and

18 (ix) Any other term, condition, or privilege of employment.

19 **No Evidence of Direct Threat**

20 **83.** Defendant regards plaintiff as disabled with an impaired respiratory
21 system and an impaired immune system; and reacts to and perceives plaintiff
22 as a potential or actual source of contagious disease without any individualized
23 assessment.

24 **84.** The very nature of discrimination is to take action based upon an
25 unjustified negative attitude or opinion that is not based upon factual evidence.
26 The defendant expresses the attitude toward the plaintiff as if the plaintiff is a
27 direct threat to others, yet has never complied with any of the individual
28 assessment criteria, to wit:

29 CFR Sections 1630.2(r):

1 "Direct Threat means a significant risk of substantial harm to the
 2 health or safety of the individual or others that cannot be
 3 eliminated or reduced by reasonable accommodation. The
 4 determination that an individual poses a 'direct threat' shall be
 5 based on an individualized assessment of the individual's
 6 present ability to safely perform the essential functions of the job.
 7 This assessment shall be based on a reasonable medical
 8 judgment that relies on the most current medical knowledge
 9 and/or on the best available objective evidence. In determining
 10 whether an individual would pose a direct threat, the factors to
 11 be considered include:

- 12 (1) The duration of the risk;
- 13 (2) The nature and severity of the potential harm;
- 14 (3) The likelihood that the potential harm will occur; and
- 15 (4) The imminence of the potential harm."

16 **85.** The defendant has made no meaningful efforts to remediate itself on the
 17 law, and has only referred to statements made on the CDC's website and the
 18 EEOC's website that mention the ADA, but this clearly does not qualify as an
 19 individualized medical assessment.

20 **Prohibited Medical Examinations and Inquiries**

21 **86.** Among other things, Title I prohibits employers (the defendant) from
 22 requiring medical examinations or making disability-related inquiries of
 23 employees unless such examination or inquiry is shown to be job-related and
 24 consistent with business necessity; see, 42 U.S.C. §12112(d)(4); 29 CFR
 25 §1630.14(c).

26 **87.** An employer is entitled only to the information necessary to determine
 27 whether the employee can perform the essential functions of the job with or
 28 without reasonable accommodations and the defendant has failed to identify
 any set of facts that would qualify under this limitation.

§ 1630.13(b) Prohibited medical examinations and inquiries.

(b) Examination or inquiry of employees. Except as permitted by § 1630.14, it is unlawful for a covered entity to require a medical examination of an employee or to make inquiries as to whether an employee is an individual with a disability or as to the nature or severity of such disability.

(c) Examination of employees. A covered entity may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

88. Defendant has never conspicuously disclosed that complying with an injection requirement, repetitive tissue-testing requirement, quarantining without due process requirement and a facial masking requirement are an **essential function of the job** of Court Officer; and it was never previously an essential function of plaintiff's job.

89. The plaintiff must satisfy the Court Officer job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related; and be able to perform those tasks that are essential to the job, with or without reasonable accommodation.² Generally speaking employees that have been performing their essential job functions prior to the employer regarding them as disabled, easily meet this requirement.

90. The plaintiff's remedy, with assistance from the court, is to **request the defendant to terminate its perceptions** that the plaintiff's unvaccinated condition includes its associated assumptions of regarding the plaintiff's respiratory and immune system as impaired. The perception thus being eliminated, the employee returns to his antecedent *status quo* employment status.

²<https://www.eeoc.gov/publications/ada-your-responsibilities-employer>

Medical Records are Confidential

91. Defendant appears to be widely sharing its non-job-related medical classification of the plaintiff with many employees without any regard to confidentiality.

§ 1630.13 continues:

(1) Information obtained under paragraph (c) of this section regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that:

(i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) First aid and personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) Government officials investigating compliance with this part shall be provided relevant information on request.

(2) Information obtained under paragraph (c) of this section regarding the medical condition or history of any employee shall not be used for any purpose inconsistent with this part.

92. The defendant is widely sharing its classification of perceiving plaintiff as disabled or impaired and unvaccinated with many employees who are tasked with assessing plaintiff's use of the mitigation measures; which leads to co-workers treating plaintiff as impaired and harassing plaintiff with repetitive emails and intimidating interactions.

93. Defendant is widely sharing its classification of plaintiff as unvaccinated with numerous employees who are tasked with recording plaintiff's vaccination status; which leads to harassing plaintiff with repetitive emails and threats of termination.

1 **94.** Plaintiff was terminated on October 19, 2021 on the basis of being
2 unvaccinated which was euphemistically called “unfit for service”. These
3 factors are based solely upon defendant’s perception of plaintiff’s physical
4 condition.

5 **95.** Plaintiff is also repetitively asked to disclose his injection status on an
6 online portal without any notice regarding the data retention policy or who
7 receives the data and for what purpose.

8 **Defendant is not running a voluntary health program.**
9

10 § 1630.14

11 (d) Other acceptable examinations and inquiries. A covered
12 entity may conduct voluntary medical examinations and
13 activities, including voluntary medical histories, which are part of
14 an employee health program available to employees at the work
site.

15 (1) Employee health program. An employee health program,
16 including any disability-related inquiries or medical examinations
17 that are part of such program, must be reasonably designed to
18 promote health or prevent disease. A program satisfies this
19 standard if it has a reasonable chance of improving the health of,
20 or preventing disease in, participating employees, and it is not
21 overly burdensome, is not a subterfuge for violating the ADA or
22 other laws prohibiting employment discrimination, and is not
23 highly suspect in the method chosen to promote health or
24 prevent disease. A program consisting of a measurement, test,
25 screening, or collection of health-related information without
26 providing results, follow-up information, or advice designed to
27 improve the health of participating employees is not reasonably
28 designed to promote health or prevent disease, unless the
collected information actually is used to design a program that
addresses at least a subset of the conditions identified. A
program also is not reasonably designed if it exists mainly to shift
costs from the covered entity to targeted employees based on
their health or simply to give an employer information to estimate
future health care costs. Whether an employee health program is

reasonably designed to promote health or prevent disease is evaluated in light of all the relevant facts and circumstances.

(2) Voluntary. An employee health program that includes disability-related inquiries or medical examinations (including disability-related inquiries or medical examinations that are part of a health risk assessment) is voluntary as long as a covered entity:

(i) Does not require employees to participate;

(ii) Does not deny coverage under any of its group health plans or particular benefits packages within a group health plan for non-participation, or limit the extent of benefits (except as allowed under paragraph (d)(3) of this section) for employees who do not participate;

(iii) Does not take any adverse employment action or retaliate against, interfere with, coerce, intimidate, or threaten employees within the meaning of Section 503 of the ADA, codified at 42 U.S.C. 12203 and 29 CFR Part 1630.14(c).

96. Defendant has never conspicuously disclosed that the discriminatory policy is a voluntary health program.

97. Defendant has never provided an absolute risk/absolute benefit analysis of the discriminatory policy; this disqualifies the discriminatory policy as a health program by design.

98. Defendant has interfered with plaintiff's enjoyment of his ADA rights which lends credence to the allegation that the discriminatory policy is a subterfuge for violating the ADA or other laws prohibiting employment discrimination.

Limiting, Segregating and Classifying

99. Defendant has violated and continues to violate Title I of the ADA, 42 U.S.C. §12112(b) implemented by 29 CFR Parts 1630.5.

§ 1630.5 Limiting, segregating, and classifying.

1 It is unlawful for a covered entity to limit, segregate, or
2 classify a job applicant or employee in a way that
3 adversely affects his or her employment opportunities
4 or status on the basis of disability.

5 **100.** Defendant has violated and continues to violate Title I of the ADA, 42
6 U.S.C. §12112(b) implemented by 29 CFR Parts 1630.5.

7 **101.** Defendant has mis-classified plaintiff as “disabled” under the “regarded
8 as” prong and made a “record of” this perceived disability.

9 **102.** Defendant classified the plaintiff as having the physical condition of being
10 “unvaccinated” and has discriminated and retaliated against plaintiff upon this
11 basis.

12 **103.** Defendant mis-classified the plaintiff as “unfit to serve” on the basis of
13 perceived disability without an individualized assessment.

14 **104.** Defendant mis-classified the plaintiff as “non-compliant” based upon
15 perceived disability because it refused to acknowledge plaintiff’s enjoyment of
16 his rights under the ADA.

17 **105.** Defendant terminated plaintiff’s employment based on these
18 classifications.

19 **106.** The law prohibits the defendant from imposing any accommodation
20 measures upon the plaintiff, and yet the defendant has undertaken several
21 adverse employment actions to intimidate, harass, coerce and retaliate against
22 the plaintiff for not accepting defendant’s accommodations and otherwise
23 exercising and enjoying his rights under the ADA, specifically, 29 CFR Part
24 1630.9(d).

25 **107.** If the plaintiff had previously made at least one request for reasonable
26 modifications, plaintiff has since withdrawn such request.
27
28

§ 1630.9

(d) An individual with a disability is not required to accept an accommodation, aid, service, opportunity or benefit which such qualified individual chooses not to accept.

108. Defendant offered mitigation measures as accommodations to the perceived disability and plaintiff chose not to accept.

109. Defendant limited the accommodation measures³, such as examinations, disclosures of medical records that were not job-related, experimental injections, medical interventions, equipment or products, to only those chosen by the defendant.

110. The plaintiff is not required to accept any accommodations and has not waived any rights to informed consent. The defendant had expressed to the plaintiff that regarding these accommodations, the plaintiff's right to informed consent was not violated because he could quit at any time. This clearly violates 29 CFR Part 1630.9(d).

111. The defendant has not indicated that the accommodations offered are reasonable or necessary to enable the plaintiff to perform essential functions of the employment position held.

112. The plaintiff explained and disclosed to the defendant that the accommodations offered by the defendant would create a disability for the plaintiff that substantially limits one or more major life activities, including, but not limited to: breathing, normal cell growth, normal immune system functioning and communications.

113. The defendant has never expressed that plaintiff's refusal to accept such accommodations would have fundamentally altered the work environment or

³ 29 CFR Part 1630.2(j)(5)(i)

1 caused any undue burden upon the defendant. In fact, the defendant's
2 policies regarding the so-called forced medical examinations and interventions
3 have already fundamentally altered the work environment.

4 **114.** In fact, the defendant is not required to provide any accommodation
5 under the "regarded as" prong.

6 § 1630.9

7 (e) A covered entity... is not required to provide a reasonable
8 accommodation to an individual who meets the definition of
9 disability solely under the "regarded as" prong (§ 1630.2(g)(1)
10 (iii)).

11 **115.** However, the list of adverse employment actions taken by the defendant
12 against the plaintiff such as harassing the plaintiff with coercive and
13 threatening emails; refusing to process plaintiff's discrimination claims;
14 classifying the plaintiff as "unvaccinated"; isolating and segregating the plaintiff;
15 falsely classifying the plaintiff as "unfit for service" based on injection status;
16 and "non-compliant" based on refusing to recognize plaintiff's rights of refusal,
17 penalizing the plaintiff with "being barred from his job" and then terminating the
18 plaintiff's employment for attempting to exercise and enjoy rights that are
19 protected by the ADA all serve as evidence that defendant perceives the
20 plaintiff as impaired.

21 **116.** Plaintiff demands a jury trial.

22 **117. WHEREFORE,** Plaintiff demands judgment against the defendant for
23 compensatory damages and that the court declare that Defendant's
24 discriminatory actions and/or violations as set forth in this Complaint violate
25 Title I of the Americans with Disabilities Act under 42 U.S.C. §12101 and
26 implemented under 29 CFR Part 1630 *et sequitur*,
27
28

1 **118.** And an order enjoining the defendant, along with its officers, agents, and
2 employees, and all others in active concert or participation with them, from:

3 **119.** Engaging in discriminatory acts and/or omissions against the plaintiff
4 because of (perceived) disability; and an order enjoining the defendant from
5 implementing practices and policies in a manner that is inaccessible to
6 individuals with disabilities, specifically the plaintiff, within the meaning of Title I
7 of the ADA;

8
9 **120.** And ordering defendant to:

10 **121.** Comply with the requirements of Title I of the Americans with Disabilities
11 Act, 42 U.S.C. §12101; and,

12 **122.** Provide appropriate auxiliary aids and services; modify policies,
13 practices, and procedures; and/or require alternative methods to ensure the
14 accessibility of its premises and services to individuals with disabilities,
15 specifically the plaintiff; and,

16
17 **123.** Take such affirmative steps as may be necessary to restore, as nearly as
18 practicable, each identifiable victim of the defendant's discriminatory conduct
19 to the position that plaintiff would have been in, but for the Defendant's
20 conduct, beginning with the plaintiff; and,

21 **124.** Take such affirmative steps as may be necessary to prevent the
22 recurrence of any discriminatory conduct and to eliminate, to the extent
23 practicable, the effects of such conduct.

24 **125.** Award monetary damages to the plaintiff, in an appropriate amount for
25 injuries suffered as the result of Defendant's failure to comply with the
26 requirements of Title I of the ADA, 42 U.S.C. §12101; and,
27
28

1 **126.** Assess a civil penalty against the Defendant in an amount authorized by
2 42 U.S.C. §12101 to vindicate the public interest and make the plaintiff whole;
3 and,

4 Order such other relief as the interests of justice may require.
5

6 **COUNT II – COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**
7 **UNDER THE AMERICANS WITH DISABILITIES ACT**

8 Plaintiff, Chris Mone, sues the defendant, NEW YORK STATE UNIFIED
9 COURT SYSTEM, for Retaliation, Coercion, Interference and Intimidation and
10 for declaratory and injunctive relief under Title I of the Americans with
11 Disabilities Act as implemented under 29 CFR Part 1630, *et sequitur*, and
12 alleges the following:

13 **JURISDICTION AND VENUE**

14 **127.** This court has original and exclusive jurisdiction under Title I of the
15 Americans with Disabilities Act of 1990 and the Americans with Disabilities Act
16 Amendments Act of 2008; 42 U.S.C. §12101 and 42 U.S.C. §12112(a), (b)
17 and (d)(4) as it pertains to “Retaliation, Coercion, Threats and Interference”;
18 as implemented by 29 CFR Part 1630.14(b)(3), (c) & (d) as it pertains to
19 adverse employment actions, employers, medical examinations and
20 interventions.
21

22 **128.** Venue is proper in the Eastern District of New York pursuant to 28 U.S.C.
23 §1391(b)(2) because Plaintiff resides in this District and a substantial part of
24 the events or omissions giving rise to the claims occurred in this District.
25

26 **129.** The incidents and facts giving rise to this complaint have occurred within
27 the last one hundred eighty days. The plaintiff commenced a complaint
28 against the defendant with the Equal Opportunity Employment Commission

1 (EEOC) on or about the date of September 21, 2021. The EEOC has issued
2 the plaintiff a Right to Sue letter.

3 **PARTIES**

4 **130.** Plaintiff, Chris Mone, resides in Richmond County, New York at the
5 address of 83 Windsor Road, Staten Island, New York and is a qualified
6 individual with a disability within the meaning of the ADA. The plaintiff is an
7 employee of the defendant, which is a "covered entity" within the meaning of
8 the Act.
9

10 **131.** The defendant's principal place of business is located at 25 Beaver
11 Street, New York, New York.

12 **PLAIN STATEMENT**

13 **132.** Defendant discriminated against the plaintiff based upon disability. When
14 the plaintiff objected, the defendant retaliated against him by interfering with
15 his rights, imposing punitive measures including isolation and medical
16 examinations, withholding his pay, reducing his work hours and ultimately
17 terminating his employment.
18

19 **STATEMENTS OF FACT**

20 **133.** Plaintiff re-alleges each of the statements of fact herein and the
21 allegations contained in the preceding paragraphs and the plaintiff's supporting
22 affidavit which is also re-alleged and incorporated herein by reference.
23

24 **134.** Plaintiff suffered the adverse employment action of choosing between
25 taking an experimental drug, or other mitigation measures with no liability
26 coverage or having his employment terminated without any diagnosis
27 establishing that he is a direct threat and needs such medical treatment in the
28 first place.

1 **135.** The list of adverse employment actions taken by the defendant against
 2 the plaintiff such as: harassing the plaintiff with coercive and threatening
 3 emails; refusing to process plaintiffs discrimination claims; classifying the
 4 plaintiff as “unvaccinated”; isolating and segregating the plaintiff; falsely
 5 classifying the plaintiff as “unfit for service” based on injection status; falsely
 6 claiming plaintiff was “non-compliant” based on refusing to recognize plaintiff’s
 7 rights of refusal; penalizing the plaintiff with “being barred from his job”; and
 8 terminating the plaintiff’s employment for attempting to exercise and enjoy
 9 rights that are protected by the ADA, which demonstrates that defendant
 10 retaliated against plaintiff because it perceived him as impaired.

11 12 13 **ALLEGATIONS OF DEFENDANT’S VIOLATIONS**

14 **OF TITLE I OF THE ADA, 42 U.S.C. §12101 *et sequitur*.**

15 **136.** The ADA also prohibits employers from retaliating against individuals
 16 who oppose discriminatory activities or who make charges, testify, assist, or
 17 participate in any manner in an investigation, proceeding or hearing under the
 18 ADA, Title 42 U.S.C. § 12203 and 29 CFR Parts 1630.12(a) and (b) and Parts
 19 1630.13(b), (c), (d) and Part 1630.14(c), to wit:

20 **Retaliation**

21 **§ 1630.12 Retaliation and coercion.**

22 (a) Retaliation. It is unlawful to discriminate against any
 23 individual because that individual has opposed any act or
 24 practice made unlawful by this part or because that individual
 25 made a charge, testified, assisted, or participated in any manner
 26 in an investigation, proceeding, or hearing to enforce any
 27 provision contained in this part.
 28

1 **137.** The plaintiff was threatened to be terminated and was terminated
 2 because of his unvaccinated condition and has successfully stated a violation
 3 of the act simply because he has been subjected to an action prohibited under
 4 the law because of perceived physical impairment.

5 **138.** The impairment **experienced** by the plaintiff in connection with his
 6 respiratory and immune systems is neither transitory nor minor from the
 7 defendant's point of view because the defendant has no end date when it will
 8 not regard this status as warranting termination.

9 **139.** Therefore the ruse of placing plaintiff on unpaid leave is also effectively
 10 termination because there is no end date.

11 **140.** Nor can the defendant claim it was unaware of its own perception at the
 12 date of termination because the very basis for termination is the unvaccinated
 13 condition of the plaintiff and the attendant deficiencies associated with the
 14 plaintiff's respiratory and immune systems.

15 **141.** Defendant adopted a new discriminatory policy and discriminated against
 16 the plaintiff based on perceived disability; when plaintiff opposed the unlawful
 17 policy, defendant retaliated against the plaintiff by terminating his employment
 18 through the ruse of classifying plaintiff as "unfit to serve" and "non-compliant";
 19 however, the evidence shows that plaintiff was terminated because he was
 20 deemed a "direct threat" without individualized assessment and because he
 21 was classified as "unvaccinated".

22 **Coercion, Interference or Intimidation**

23 **§ 1630.12**

24 (b) Coercion, interference or intimidation. It is unlawful
 25 to coerce, intimidate, threaten, harass or interfere with
 26 any individual in the exercise or enjoyment of, or
 27
 28

1 because that individual aided or encouraged any other
2 individual in the exercise of, any right granted or
3 protected by this part.

4 **142.** Additionally, the defendant has coerced, intimidated and interfered
5 against the plaintiff by:

6 **143.** a.) coercing the plaintiff to submit to the accommodation measures,
7 medical interventions and examinations and other health control measures,
8 even though the defendant was duly advised by the plaintiff that the plaintiff
9 was not subject to any health control measures by any court orders, and that
10 the defendant was not empowered by any court order or other legal duty to
11 impose such interventions, examinations or control measures upon the
12 plaintiff⁴; and,

13
14 **144.** b.) allowing other employees to coerce, intimidate or verbally ridicule and
15 abuse the plaintiff in violation of the defendant's duty of care; and,

16 **145.** c.) threatening the plaintiff with the termination of his employment and,

17 **146.** d.) threatening the plaintiff with exclusion because of his disability.

18
19 **147.** Defendant coerced the plaintiff on many occasions by demanding plaintiff
20 submit to experimental medical treatments without first performing an
21 individualized assessment to gather the medical evidence necessary to base
22 such a "demand" upon.

23 **148.** Defendant effectively coerced the plaintiff by refusing to provide a
24 risk/benefit analysis as required for true informed consent; and refused to
25 recognize the plaintiff's right to refuse medical treatment or participate in a
26 clinical study, thus interfering with plaintiff's enjoyment of protected rights.
27

28

4 Chapters 1.23 through 1.43 of the New York State Public Health Manual.

1 **149.** Defendant interfered with the exercise and enjoyment of plaintiff's rights
 2 by refusing to document the discrimination, process his opposition to the
 3 prohibited practices or aid the plaintiff in the enjoyment of his rights, which is a
 4 duty of the defendant.

5 **150.** Defendant's designated compliance agents refused to correct
 6 defendant's classification or to aid and encourage plaintiff in the enjoyment of
 7 his rights under the ADA and, in fact, Carolyn Grimaldi, Eva Moy and Kelvin
 8 Smartt interfered with his rights by refusing to respond to plaintiff's repeated
 9 requests to document, perform an intake or investigate the discrimination. See
 10 Plaintiff Affidavit paragraphs 5, 7-13, 24.

11 **151.** All three agents: Carolyn Grimaldi, Kelvin Smartt and Eva Moy, each
 12 refused to set-up interactive intake meetings with the plaintiff; refused to
 13 communicate with the plaintiff; refused to create a discrimination
 14 documentation file; refused to investigate the discrimination; refused to assist
 15 the plaintiff; refused to help him find a resolution to the discrimination or
 16 mitigate the harassment. They each interfered with plaintiff's rights under the
 17 ADA.
 18

19 **152.** The September 10, 2021 memo (Exhibit A-3) clearly demonstrates that
 20 the defendant is regarding the plaintiff as disabled and is intending adverse
 21 employment actions if plaintiff does not get injected or submit to defendant's
 22 accommodation measures by the September 27th deadline. It does not mention
 23 plaintiff's right of refusal under EUA guidelines⁵, there is no mention of plaintiff
 24 having the right to refuse the defendant's accommodations under the ADA⁶,
 25 there is no mention made of plaintiff having the right of informed consent.
 26

27 ⁵ Title 21, Chapter 9 V, Part E §360bbb-3a. Emergency use of medical products

28 ⁶ 29 CFR Part 1630.9 (d) & (e)

1 Defendant is interfering with the plaintiff's rights by obfuscation and by refusing
2 to acknowledge them.

3 **153.** Defendant interfered with plaintiff's enjoyment of his rights under the ADA
4 by providing employer "vaccine declaration" forms which offered only medical
5 or religious exemption as the available "opt-out" choices. This interfered with
6 plaintiff's ADA rights because it limited plaintiff's right to invoke ADA protections
7 under the 'regarded as' prong, including without limitation, the right to be free
8 of discrimination and retaliation based upon disability, such as being
9 terminated or segregated because of one's physical condition.

10
11 **154.** The EEOC has offered guidance on interference and states:

12 "Examples of interference include: issuing a policy or
13 requirement that purports to limit an employee's rights to invoke
14 ADA protections (e.g., a fixed leave policy that states 'no
15 exceptions will be made for any reason');"⁷

16 **155.** Defendant interfered with plaintiff's rights by then classifying plaintiff as
17 "noncompliant" when plaintiff notified the defendant that plaintiff was exercising
18 his rights of refusal based upon his rights under the ADA and informed
19 consent.

20 **156.** Defendant deceptively tried to persuade plaintiff that his only remedy to
21 the illegal policy demands would be to ask for a medical or religious exemption
22 from these discriminatory policies and practices, thereby creating a false
23 record that is without legal merit and creates a substantial prejudice against
24 the plaintiff to seek a remedy in court.

25
26
27
28 ⁷<https://www.eeoc.gov/laws/guidance/questions-and-answers-enforcement-guidance-retaliation-and-related-issues>

1 **157.** Defendant only presented a medical or religious exemption, and did not
 2 mention that ADA accommodations are available; which is obfuscation of and
 3 interference with the exercise and enjoyment of plaintiffs rights held under the
 4 ADA, particularly 42 USC 12203(b) and 29 CFR 1630.12(b).

5 **No Undue Burden**

6 **158.** The defendant has failed to demonstrate any facts constituting any
 7 undue burden it would incur because of plaintiff's choice to refuse the
 8 accommodations offered by the defendant. Defendant cited no facts including:
 9

10 **29 CFR Part 1630 *et sequitur*.**

11 (i) The nature and net cost of the accommodation needed under
 12 this part, taking into consideration the availability of tax credits
 13 and deductions, and/or outside funding;

14 (ii) The overall financial resources of the facility or facilities
 15 involved in the provision of the reasonable accommodation, the
 16 number of persons employed at such facility, and the effect on
 17 expenses and resources;

18 (iii) The overall financial resources of the covered entity, the
 19 overall size of the business of the covered entity with respect to
 20 the number of its employees, and the number, type and location
 21 of its facilities;

22 (iv) The type of operation or operations of the covered entity,
 23 including the composition, structure and functions of the
 24 workforce of such entity, and the geographic separateness and
 25 administrative or fiscal relationship of the facility or facilities in
 26 question to the covered entity; and

27 (v) The impact of the accommodation upon the operation of the
 28 facility, including the impact on the ability of other employees to
 perform their duties and the impact on the facility's ability to
 conduct business.

No Fundamental Alterations

1 **159.** The defendant has failed to demonstrate how the plaintiff's refusal to
2 accept the defendant's accommodations would have fundamentally altered the
3 manner in which the defendant carried out its usual operations; in fact, the
4 defendant has already substantially altered the manner in which it normally
5 carries out its operations by attempting to force its accommodations against
6 the will of all of its employees.

7 **No Safety Risk**

8
9 **160.** The defendant has failed to identify any legitimate safety requirements
10 that would be necessary for the safe operation of its business. It has failed to
11 identify or demonstrate any safety requirements pertaining to the
12 accommodations that are based on actual risks and not on mere speculation,
13 stereotypes, or generalizations about individuals with disabilities.

14
15 **Harm and Injury suffered by the plaintiff.**

16
17 **161.** The injury suffered by the plaintiff is thereby concrete and particularized
18 and it is actual and imminent. The injury alleged in the complaint, including the
19 pleading and exhibits, clearly sets forth a set of facts that actually occurred and
20 are not conjectural or hypothetical. The injury described therein is at least
21 fairly traceable to the challenged action, conduct and policies of the defendant.

22 **162.** The harm (injury) already suffered by the plaintiff includes, but is not
23 limited to, having to choose between waving medical privacy rights, and
24 submitting to medical interventions and examinations without the benefits of
25 informed consent, and being regarded as if he has a contagious disease
26 without any individualized assessment according to any medical or scientific
27 standards or having his employment terminated.
28

1 **163.** Once violated, these rights cannot be recovered. The medical privacy
2 rights are the plaintiff's intangible property rights which are not required to be
3 waived as a condition of employment and include the right to refuse to
4 participate in any epidemiological experiments or clinical trials.

5 **164.** Defendant's policies demonstrate soundly and convincingly, that its
6 policies inflict future harm against the plaintiff who is regarded as having a
7 disability or invisible disability and that the defendant fully intends to continue
8 these policies and that the defendant fully intends to retaliate and continue
9 retaliating against the plaintiff as alleged herein.

10 **165.** The defendant continues to discriminate against the plaintiff in violation
11 of each of the foregoing sections. Among other things, this law prohibits the
12 defendant from requiring medical examinations or making disability-related
13 inquiries of the plaintiff unless such examination or inquiry is shown to be job-
14 related and consistent with business necessity. The defendant is entitled only
15 to the information necessary to determine whether the plaintiff can perform the
16 essential functions of the job with or without reasonable accommodations
17 without posing a direct threat. The defendant has failed or refused to comply
18 with this law, even making the outrageous claim that the plaintiff can either
19 submit to complying with the accommodations or have his employment
20 terminated, regardless of the defendant's legal duties or the law.

21 **166.** It is important to note that none of the personnel in human resources that
22 were involved in this matter ever once cited any legal authority that
23 countermands the ADA.

24 **167.** Furthermore, defendant never cited any legal authority or obligation that
25 has created any new duty of care or insurable risk to impose the discriminatory
26 policies.
27
28

1 **168.** Furthermore, the defendant failed to identify any insurable risk for
2 engaging in the administration of medical examinations, interventions or
3 protecting anyone from what is being claimed as a “pandemic” or “public health
4 danger”.

5 **169.** Additionally, defendant fails to cite any insurable risk for the same or for
6 those suffering any adverse health consequences as a result of complying with
7 the accommodations administered by unlicensed, untrained, uninsured and un-
8 equipped employees of the defendant.

9
10 **170.** Even one’s own licensed and insured physician requires informed
11 consent as a condition of administering any medical examination or
12 intervention upon the patient. No laws have changed and the defendant is
13 without any legal authority or obligation to engage in these practices, and
14 especially engage in harassment, discrimination and retaliation in violation of
15 federal law.

16 **171.** As a result of Defendant’s actions the plaintiff has experienced
17 discrimination, segregation, isolation, retaliation, coercion, interference, loss of
18 wages, termination and disruption in his career.

19 **172.** Plaintiff demands a jury trial.

20
21 **173. WHEREFORE,** Plaintiff demands judgment against the defendant for
22 compensatory damages and that the court declare that Defendant’s retaliatory,
23 coercive, interfering and intimidating actions and/or violations as set forth in
24 this Complaint violate Title I of the Americans with Disabilities Act under 42
25 U.S.C. §12101 and implemented under 29 CFR Part 1630 *et sequitur*;

26 **174.** And an order enjoining the defendant, along with its officers, agents, and
27 employees, and all others in active concert or participation with them, from:
28

1 **175.** Engaging in retaliation, coercion, interference and intimidation and/or
2 omissions against the plaintiff because of his disability; and an order enjoining
3 the defendant from implementing practices and policies in a manner that is
4 inaccessible to individuals with disabilities, specifically the plaintiff, within the
5 meaning of Title I of the Americans with Disabilities Act (ADA);

6 **176.** And ordering defendant to:

7
8 **177.** Comply with the requirements of Title I of the Americans with Disabilities
9 Act, 42 U.S.C. §12101; and,

10 **178.** Provide appropriate auxiliary aids and services; modify policies,
11 practices, and procedures; and/or require alternative methods to ensure the
12 accessibility of its premises and services to individuals with disabilities,
13 specifically the plaintiff; and,

14 **179.** Take such affirmative steps as may be necessary to restore, as nearly as
15 practicable, each identifiable victim of the defendant's discriminatory conduct
16 to the position that he would have been in, but for the Defendant's conduct,
17 beginning with the plaintiff; and,

18
19 **180.** Take such affirmative steps as may be necessary to prevent the
20 recurrence of any retaliation, coercion, interference and intimidation and to
21 eliminate, to the extent practicable, the effects of such conduct.

22 **181.** Award monetary damages to the plaintiff, in an appropriate amount for
23 injuries suffered as the result of Defendant's failure to comply with the
24 requirements of Title I of the ADA, 42 U.S.C. §12101; and,

25 **182.** Assess a civil penalty against the Defendant in an amount authorized by
26 42 U.S.C. §12101 to vindicate the public interest and make the plaintiff whole;
27 and,
28

1 **183.** Order such other relief as the interests of justice may require.

2
3 **COUNT III – COMPLAINT FOR WRONGFUL TERMINATION**
4 **OF EMPLOYMENT**

5 **184.** The plaintiff, Chris Mone, sues the defendant, NEW YORK STATE
6 UNIFIED COURT SYSTEM, for wrongful termination of employment and
7 alleges the following:

8 **JURISDICTION AND VENUE**

9 **185.** The Eastern District Court has original jurisdiction over claims for
10 wrongful termination for employment and related employment agreements.

11 **186.** The plaintiff resides in Richmond County and his mailing address is 83
12 Windsor Road, Staten Island, New York.

13 **187.** The defendant is a resident in the state of New York, with its principal
14 place of business in New York County at the address of 25 Beaver Street, New
15 York, New York.

16 **188.** The material facts for all times material to this complaint took place in
17 New York County, New York.

18
19 **STATEMENTS OF FACT**

20 **189.** On the date of September 28, 2021, the plaintiff's employment was
21 terminated without notice.

22 **190.** The plaintiff advised the defendant on several occasions by documenting
23 the harassment and coercion via plaintiff's confidential communications filed
24 with the Human Relations Department and the OMIGBM.

25 **191.** This documentation addressed the fact that defendant's actions were not
26 legal and not binding upon the plaintiff and that the defendant had no duty to
27
28

1 act under these new terms. True and correct copies of these written
2 communications are attached as Exhibit A.

3 **192.** The defendant ignored the plaintiff, refused to do an intake, falsely
4 declared plaintiff was “unfit for service” and “non-compliant” and terminated his
5 employment for discriminatory reasons on September 28, 2021 with a letter.
6 The communications exhibited with this complaint are included as Exhibit A.

7
8 **193.** Defendant is not a licensed physician and not supervised under any
9 licensed physician yet wants to impose a medical intervention upon the plaintiff
10 as a condition for employment in violations of the plaintiff’s right to informed
11 consent and Americans with Disabilities Act.

12 **194.** Defendant stated that while it may require a forced medical intervention
13 without any medical qualification or licensing, the plaintiff is somehow required
14 to get permission from a licensed physician in order to exercise his right to
15 informed consent. Why does the plaintiff need a licensed physician to exercise
16 his right to informed consent and the defendant does not need any licensed
17 physician to violate plaintiff’s rights regarding medical interventions?

18 **ALLEGATIONS**

19
20 **195.** Plaintiff re-alleges the foregoing and incorporates each fact herein and
21 further alleges as follows,

22 **196.** The plaintiff’s employment was wrongfully terminated by the defendant
23 for discriminatory reasons.

24 **197.** Upon defendant’s change in the employment conditions purportedly
25 requiring the plaintiff to get experimental injections, wear a mask while
26 working, and other mitigation measures, plaintiff was suddenly expected to
27 waive his rights to informed consent on the unfounded presumption that the
28

1 plaintiff had an impaired immune system, impaired respiratory system, and
2 was a carrier of a contagious disease, all without having first made any
3 individualized assessment as to whether or not the plaintiff was a direct threat
4 to anyone.

5 **198.** Beginning from the date the plaintiff was hired twenty years ago, plaintiff
6 has been compensated for his labor and the services he has provided the
7 defendant at regular intervals. Plaintiff had a reasonable expectation to
8 continue working for the defendant. The defendant's termination of the
9 plaintiff's employment was in violation of the employment contract and was
10 made without notification or adequate notification to the plaintiff.

11 **199.** The terms of the employment contract are alleged herein and include the
12 written policies of the defendant, a true and correct copy of which is attached
13 as Exhibit C.

14 **200.** The conditions of plaintiff's employment with the defendant did not
15 require the defendant to waive any of his rights.

16 **201.** The conditions of the plaintiff's employment with the defendant did not
17 require the plaintiff to accept the defendant's medical advice.

18 **202.** The conditions of the plaintiff's employment with the defendant did not
19 include terms that allowed the defendant to engage in the unlicensed practice
20 of medicine and the defendant is not insured or otherwise indemnified for
21 practicing medicine.

22 **203.** The conditions of the plaintiff's employment with the defendant did not
23 include terms that made the defendant the plaintiff's physician or otherwise
24 require the plaintiff to act upon medical advice given by the defendant.

1 **204.** Plaintiff's employment was wrongfully terminated in retaliation for
2 exercising his rights under the ADA. Also, the plaintiff has certain intangible
3 private property rights which include the right to care for his own health and
4 choose his own physician and health care practices while also avoiding habits
5 and practices that the plaintiff believes might ruin or risk her good health.

6 **205.** The plaintiff also has the intangible private property right to make
7 decisions that affect his health with informed consent; that is, plaintiff has a
8 right to review all risk and benefit analyses and results from relevant clinical
9 studies prior to making any decision to adopt new practices regarding his
10 health.

11 **206.** The defendant refused to comply with the law and violated the plaintiff's
12 property rights, specifically those enumerated under the state's Patient's Bill of
13 Rights and informed consent.

14 **207.** Defendant is an employer and prohibited from firing or otherwise
15 retaliating against employees, specifically the plaintiff, who report workplace
16 safety violations or participate in investigations into such violations.

17 **208.** New conditions of employment violated the Americans with Disabilities
18 Act and involved the defendant's conduct which included imposing mitigation
19 measures and retaliation in violation of the ADA.

20 **209.** New conditions of employment violated the long-standing safety
21 standards adopted by the Occupational Safety and Health Administration and
22 involved the defendant's conduct which included imposing medical
23 interventions in violation of the law prohibiting the unlicensed practice of
24 medicine.

1 **210.** Plaintiff's employment was also wrongfully terminated because the
2 plaintiff refused to accept a medical intervention sought to be imposed by the
3 defendant where such medical intervention was not permitted to be imposed
4 by law or to be imposed by the defendant and violated the plaintiff's right to
5 informed consent.

6 **211.** As a direct and proximate result of the defendant's actions, the plaintiff's
7 employment was wrongfully terminated by the defendant.

8 **212.** The defendant's actions were willful and negligent. After plaintiff's
9 objections and attempts to re-mediate the defendant on the law and his rights,
10 the defendant continued violating the law and violating the plaintiff's rights as
11 alleged herein.

12 **213.** The defendant did not act under color of law or claim of lawful authority.
13 The defendant had no legal duty to require the plaintiff to undertake any
14 medical intervention much less purportedly requiring the plaintiff to get
15 injections, submit tissue samples or wear a surgical mask or mask of any kind
16 as a new condition of his employment.

17 **214.** The plaintiff was not acting under any authority of law or court order.
18 Again, the defendant was under no legal duty to violate the law as alleged
19 herein, and no authority or court order permitted the defendant to violate the
20 law or violate the plaintiff's rights as alleged herein. The plaintiff never waived
21 any of his rights at any time.

22 **215.** No employee or agent of the defendant is licensed, competent or
23 authorized to give medical advice, such as requiring employees such as the
24 defendant to get injections, wear a mask, or submit to temperature or tissue
25 testing.

1 **216.** Additionally, neither the defendant nor any of its employees or agents are
2 insured or indemnified to collect tissue samples or interpret vital statistics
3 (nasal swabs and temperature readings which can lead to being quarantined
4 without due process).

5 **217.** Defendant has no authority to require the plaintiff to act upon its medical
6 advice (injections, masks); disclose his vital statistics (temperature); or submit
7 to any medical examination by giving tissue samples (nasal testing) as a new
8 condition of the plaintiff retaining his employment with the defendant.
9

10 **218.** The defendant is not authorized to violate the rights of the plaintiff, nor is
11 the defendant required to break the law, or operate beyond its charter as a new
12 condition of the plaintiff's employment that was never considered at the time he
13 was hired.

14 Plaintiff demands a jury trial.

15 **219. WHEREFORE** plaintiff demands judgment against the defendant for
16 wrongful termination together with costs and attorney fees and other relief as
17 this court deems appropriate.
18

19 **COUNT IV – LOST WAGES**
20

21 **220.** Plaintiff re-alleges the foregoing and incorporates each fact herein and
22 further alleges as follows,

23 **221.** Plaintiff was wrongfully terminated on the date of September 28, 2021
24 and based upon his rate of compensation, the plaintiff is entitled to lost wages
25 in the approximate amount of one-thousand, eight-hundred five dollars (\$1805)
26 per week from the date of September 28, 2021 through the current date, not
27
28

1 including additional benefits which may be calculated by the court, plus interest
2 as calculated by the laws of the state of New York.

3 **222. WHEREFORE** plaintiff demands judgment against the defendant for lost
4 wages in the amount of \$93,879 as alleged herein, together with costs and
5 attorney fees and other relief as this court deems appropriate.
6

7 **COUNT V – BREACH OF CONTRACT**
8

9 **223.** Plaintiff re-alleges the foregoing and incorporates each fact herein and
10 further alleges as follows,

11 **224.** It was an employment contract that was commenced between the
12 plaintiff and defendant on the date of January 8, 2001 with an offer of
13 employment and continued without interruption until plaintiff's employment was
14 terminated as alleged herein.

15 **225.** The Plaintiff's job title was Court Officer and he was paid \$1805 per
16 week.
17

18 **226.** In addition to the regular remuneration paid by the defendant to the
19 plaintiff as alleged, the defendant provided the plaintiff with annual incentive
20 bonus as an additional benefit under the employment agreement.

21 **227. WHEREFORE** plaintiff demands judgment against the defendant in the
22 amount of no less than the amount of \$93,879 plus costs and attorney fees
23 and other relief as this court deems appropriate.
24

25 **COUNT VI – BREACH OF IMPLIED CONTRACT**
26

27 **228.** Plaintiff re-alleges the foregoing and incorporates each fact herein and
28 further alleges as follows,

1 **229.** It was an employment contract that was commenced between the
2 plaintiff and defendant on the date of January 8, 2001 with an offer of
3 employment and continued without interruption until plaintiff's employment was
4 terminated as alleged herein.

5 **230.** The Plaintiff's job title was Court Officer and he was paid \$1805 per
6 week.

7
8 **231.** In addition to the regular remuneration paid by the defendant to the
9 plaintiff as alleged, the defendant provided the plaintiff with annual incentive
10 bonus as an additional benefit under the employment agreement.

11 **232. WHEREFORE** plaintiff demands judgment against the defendant in the
12 amount of no less than the amount of \$93,879 plus costs and attorney fees
13 and other relief as this court deems appropriate.
14

15
16 **COUNT VII – COMPLAINT FOR WRONGFUL CONSTRUCTIVE**
17 **TERMINATION OF EMPLOYMENT**

18 **233.** The plaintiff, Chris Mone, sues the defendant, NEW YORK STATE
19 UNIFIED COURT SYSTEM, for wrongful constructive termination of
20 employment and alleges the following:

21 **JURISDICTION AND VENUE**
22

23 **234.** The Eastern District Court has original jurisdiction over claims for
24 wrongful termination for employment and related employment agreements.

25 **235.** The plaintiff resides in Richmond County, New York, and his mailing
26 address is 83 Windsor Road, Staten Island, New York 10314.
27
28

1 **236.** The defendant is a resident in the state of New York, with its place of
2 business at the address of 25 Beaver Street, New York, New York.

3 **237.** The material facts at all times material to this complaint took place
4 at 25 Beaver Street, New York, New York and the satellite office at 18
5 Richmond Terrace, Staten Island, New York.

6
7 **STATEMENTS OF FACT**

8 **238.** On the date of September 28th, 2021, the plaintiff's employment was
9 terminated without notice.

10 **239.** The plaintiff advised the defendant on several occasions, and in writing,
11 that its actions were not legal and not binding upon the plaintiff and that the
12 defendant had no duty to act under these new terms. True and correct copies
13 of these written communications are attached as Exhibit A.

14 **240.** The defendant ignored the plaintiff's timely responses declining
15 mitigation measures and EUA injections on the basis of plaintiff not waiving
16 any of his rights, including right of refusal and informed consent.

17 **241.** Defendant refused to acknowledge plaintiff's timely written notices of his
18 rights-based refusal and terminated his employment on the date of September
19 28, 2021.

20 **242.** Defendant falsely claimed the plaintiff was "unfit for service" and "non-
21 compliant" because defendant regarded the plaintiff as having an impaired
22 immune system and respiratory system, perceived plaintiff as contagious
23 without evidence and classified the plaintiff as "unvaccinated".

24 **243.** Defendant is not a licensed physician and not supervised under any
25 licensed physician yet wants to impose a medical intervention upon the plaintiff
26
27
28

1 as a condition for employment in violations of the plaintiff's right to informed
2 consent and Americans with Disabilities Act.

3 **244.** Defendant stated that while it may require a forced medical intervention
4 without any medical qualification or licensing, the plaintiff is somehow required
5 to get permission from a licensed physician in order to exercise his right to
6 informed consent. Why does the plaintiff need a licensed physician to exercise
7 his right to informed consent and the defendant does not need any licensed
8 physician to violate plaintiff's rights regarding medical interventions?
9

10 **ALLEGATIONS**

11 **245.** Plaintiff re-alleges the foregoing and incorporates each fact herein and
12 further alleges as follows,

13 **246.** The plaintiff's employment was constructively terminated by the
14 defendant for discriminatory reasons. Upon defendant's change in the
15 employment contract purportedly requiring the plaintiff to submit to medical
16 interventions and mitigation measures and waive his rights to informed
17 consent, on the unfounded presumption that the plaintiff had impairments of
18 his immune system and respiratory system, and carried a contagious disease,
19 without having first made any individualized assessment as to whether or not
20 the plaintiff was a direct threat to anyone.
21

22 **247.** Defendant intentionally created or deliberately permitted such intolerable
23 working conditions for the plaintiff, that the plaintiff reasonably felt he had no
24 choice except to continue to refuse to participate in these intolerable working
25 conditions which concluded in his employment being terminated, but it was
26 constructively terminated because the defendant has made a false record that
27 the plaintiff was "unfit for work" and "non-compliant".
28

1 **248.** Defendant had no legal right to terminate the plaintiff's employment so it
2 created false records intending to give the appearance that the plaintiff was
3 "unfit for service" and "non-compliant", completely ignoring the facts
4 constituting discrimination based upon disability and retaliation which were the
5 actual direct and proximate causes of the wrongful constructive termination of
6 plaintiff's employment.

7 **249.** Defendant has intentionally created or knowingly permitted working
8 conditions that are and were so intolerable or aggravated, that a reasonable
9 employer would realize that a reasonable person in the employee's position
10 would have no choice, but to resign.

11 **250.** While the plaintiff did not resign, the plaintiff's employment was
12 constructively terminated because defendant made a false record that the
13 plaintiff was "unfit for service" and "non-compliant". Defendant's conduct was
14 intended to falsify employment records regarding the defendant's wrongful and
15 constructive termination of the plaintiff's employment in an attempt to escape
16 liability.

17 **251.** The defendant created intolerable, adverse working conditions and
18 continuously mistreated the plaintiff and made a false record that the plaintiff
19 was "unfit for service" and "non-compliant".
20

21 **252.** The plaintiff was subjected to working conditions that violated Americans
22 with Disabilities Act. The plaintiff was required to submit to certain
23 accommodations (medical treatments) and waive his rights to informed
24 consent as explained herein.
25

26 **253.** That defendant intentionally created or knowingly permitted these
27 working conditions. The defendant regarded the plaintiff as being disabled and
28

1 enforced mitigation measures such as mask-wearing, experimental medical
2 treatments (being promoted as vaccines which are not vaccines) during an
3 emergency use authorization period and other health control measures upon
4 the plaintiff which harassed the plaintiff and created intolerable working
5 conditions for the plaintiff.

6 **254.** The defendant's policies impaired the plaintiff's ability to undertake his
7 employment duties without first submitting to the accommodations offered by
8 the defendant. This unlawfully discriminates against the plaintiff under 29 CFR
9 Part 1630.9(d) as the plaintiff is not required to accept any accommodations.
10

11 **255.** That these working conditions were so intolerable that a reasonable
12 person in the plaintiff's position would have had no reasonable alternative
13 except to resign;

14 **256.** The plaintiff's only choice was to resign because of these working
15 conditions, but he was terminated before he resigned.

16 **257.** The plaintiff was harmed by suffering the loss of pay; opportunities for
17 employment with defendant that were made available to others but not the
18 plaintiff; and the peace of mind, which plaintiff has the right to expect, of
19 working for an employer without being harassed, threatened, coerced and
20 intimidated on the job.
21

22 **258.** Plaintiff was harmed by suffering interference with the right to exercise
23 and enjoy all rights that are protected under the Americans with Disabilities Act.

24 **259.** Plaintiff was harmed by suffering the loss of medical privacy rights,
25 informed consent and the right to refuse to take part in a clinical trial.

26 **260.** Defendant's working conditions and illegal policies were a substantial
27 factor in causing the plaintiff's harm.
28

1 **261.** Beginning from the date the plaintiff was hired, he has been
2 compensated for his labor and the services he has provided the defendant at
3 regular intervals. Plaintiff had a reasonable expectation to continue working for
4 the defendant.

5 **262.** The defendant's constructive and wrongful termination of the plaintiff's
6 employment was in violation of the employment contract and was made
7 without notification or adequate notification to the plaintiff.
8

9 **263.** The terms of the employment contract are alleged herein.

10 **264.** The conditions of plaintiff's employment with the defendant did not
11 require the defendant to waive any of his rights.

12 **265.** The conditions of the plaintiff's employment with the defendant did not
13 require the plaintiff to accept the defendant's medical advice.
14

15 **266.** The conditions of the plaintiff's employment with the defendant did not
16 include terms that allowed the defendant to engage in the unlicensed practice
17 of medicine and the defendant is not insured or otherwise indemnified for
18 practicing medicine.

19 **267.** The conditions of the plaintiff's employment with the defendant did not
20 include terms that made the defendant the plaintiff's physician or otherwise,
21 require the plaintiff to act upon medical advice given by the defendant.
22

23 **268.** Plaintiff's employment was wrongfully and constructively terminated in
24 retaliation for exercising his rights under the ADA.

25 **269.** Also, the plaintiff has certain intangible private property rights which
26 include the right to care for his own health and choose his own physician and
27 health care practices while also avoiding habits and practices that he believes
28 might ruin or risk his good health.

1 **270.** The plaintiff also has the Intangible private property right to make
2 decisions that affect his health with informed consent; that is, plaintiff has a
3 right to review all risk and benefit analyses and results from relevant clinical
4 studies prior to making any decision to adopt new practices regarding his
5 health. The defendant refused to comply with the law and violated the
6 plaintiff's property rights, specifically those enumerated under the state's
7 Patient's Bill of Rights and informed consent.

8 **271.** Defendant is an employer and prohibited from firing or otherwise
9 retaliating against employees, specifically the plaintiff, who report workplace
10 safety violations or participate in investigations into such violations.

11 **272.** New conditions of employment violated the long-standing safety
12 standards adopted by the Occupational Safety and Health Administration and
13 involved the defendant's conduct which included imposing a medical
14 intervention in violation of the law prohibiting the unlicensed practice of
15 medicine.

16 **273.** Defendant created new conditions of employment which violated the
17 Americans with Disabilities Act. These new conditions included imposing
18 mitigation measures offered as accommodations to the plaintiff and resulted in
19 defendant retaliating against the plaintiff in violation of the ADA.
20

21 **274.** Plaintiff refused to accept the medical interventions (accommodations)
22 sought to be imposed by the defendant and plaintiff's employment was
23 wrongfully and constructively terminated. These medical interventions were
24 not permitted by law to be imposed by the defendant and violated the plaintiff's
25 rights under the Americans with Disabilities Act. The accommodations also
26 violated his right to informed consent.
27
28

1 **275.** As a direct and proximate result of the defendant's actions, the plaintiff's
2 employment was wrongfully and constructively terminated by the defendant.

3 **276.** The defendant's actions were willful and negligent. After plaintiff's
4 objections and attempts to re-mediate the defendant on the law and his rights,
5 the defendant continued violating the law and violating the plaintiff's rights as
6 alleged herein.

7 **277.** The defendant did not act under color of law or claim of lawful authority.
8 The defendant had no legal duty to require the plaintiff to undertake any
9 mitigation measures or the one purportedly requiring the plaintiff to wear a
10 surgical mask or mask of any kind as a new condition of his employment.

11 **278.** The plaintiff was not acting under any authority of law or court order.
12 Again, the defendant was under no legal duty to violate the law as alleged
13 herein, and no authority or court order permitted the defendant to violate the
14 law or violate the plaintiff's rights as alleged herein.

15 **279.** The plaintiff never waived any of his rights at any time.

16 **280.** No employee or agent of the defendant is licensed, competent or
17 authorized to give medical advice, such as requiring employees such as the
18 plaintiff to get experimental injections, wear a mask, or submit to temperature
19 or tissue testing.

20 **281.** Additionally, neither the defendant nor any of its employees or agents are
21 insured or indemnified to collect tissue samples or interpret vital statistics such
22 as body temperatures.

23 **282.** Defendant has no authority to require the plaintiff to act upon its medical
24 advice (getting EUA injections, wearing masks); to have defendant interpret his
25 vital statistics (e.g. temperature); to submit to any medical examination or give
26
27
28

1 tissue samples (e.g. nasal testing) as a new condition of the plaintiff retaining
2 his employment with the defendant.

3 **283.** The defendant is not authorized to violate the rights of the plaintiff, nor is
4 the defendant required to break the law, or operate beyond its charter as a new
5 condition of the plaintiff's employment that was never considered at the time he
6 was hired.

7
8 **284.** Plaintiff demands a jury trial.

9 **285. WHEREFORE** plaintiff demands judgment against the defendant for
10 wrongful constructive termination together with costs and attorney fees and
11 other relief as this court deems appropriate.

12 DATED this 9 day of December 2021.



13
14 Chris Mone, Plaintiff

1 Chris Mone
2 Plaintiff *in Propria Persona*
3 83 Windsor Road
4 Staten Island, NY 10314
5 917-699-3654
6 c.mone@aol.com

7
8
9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF NEW YORK**
11 225 Cadman Plaza East, Brooklyn, NY 11201
12

13 CHRIS MONE
14 PLAINTIFF

15 v.

CASE NO. _____

16 NEW YORK STATE
17 UNIFIED COURT SYSTEM
18 DEFENDANT
19 _____/

20 **AFFIDAVIT IN SUPPORT OF COMPLAINT**
21

22 STATE OF NEW YORK)
23) Ss
24 COUNTY OF RICHMOND)
25
26
27
28

1. I, Chris Mone, do hereby solemnly affirm that the statements herein are true and correct in substance and in fact and that I have personal knowledge of each.

2. I have been harassed at my job, was discriminated and retaliated against based on disability for refusing to accept my employer's accommodations for regarding me as impaired in my immune system and impaired in my respiratory system.

3. I am absent and without evidence of any information from any health officer identifying myself as having any communicable disease or having been exposed to any toxic substance.

4. I am absent and without knowledge of any evidence or court order, obtained by any petition of the Department of Health or a public health officer, that was based upon any physician's affidavit in which I have been identified as having any communicable disease or having been exposed to any toxic substance.

5. I am absent and without knowledge of any evidence of any court order determining that I am or have been a direct threat to anyone.

6. I am absent and without knowledge of any evidence of any individualized assessment required by law that has determined that I am or have been a direct threat to anyone.

7. I am absent and without knowledge of any evidence of any court order imposing any terms of isolation or quarantine or other measures upon myself.

8. I have previously and timely disclosed and duly noticed the defendant of a prior existing disability, and that the assertions made in the complaint are true and correct to the best of my knowledge, information and belief.

9. I have been employed as a Court Officer in the New York State Unified Court System for 21 years. On September 1, 2021, I received a Memo (Exhibit A-1) titled "Mandatory Testing Program" from Nancy Barry, Chief of Operations and Justin

1 Barry Chief of Administration which makes clear that my employer regards me as
2 disabled with an impaired immune system and an impaired respiratory system. My
3 employer is requiring me to get "tested" for disease weekly on an on-going basis;
4 and enter a record of the results on the USC Sharepoint site. My employer is also
5 coercing me to get EUA injections. My employer wants to share my status regarding
6 these mitigation measures with other employees via the UCS Employee web portal.

7 10. The Memo details harassing measures to be meted out by supervisors
8 and threatens me with the retaliation of not being allowed to work if I do not submit to
9 the new policy.

10 11. On September 8, 2021 I sent a letter (Exhibit A-2) to Lawrence Marks,
11 Deputy Chief Judge dated September 7, 2021 in which I discussed the discrimination
12 I am experiencing. I also mention that our Court Officers union needs to be included
13 in any policy-making decisions.

14 12. On September 10, 2021 I received a "Vaccine mandate" memo (Exhibit
15 A-3) from Nancy Barry, Chief of Operations and Justin Barry Chief of Administration
16 which stated that I must be EUA injected by September 27, 2021 or my job would be
17 at risk and I would likely be fired. This memo shows that my employer regards me
18 as impaired with the condition of being "unvaccinated" since it is threatening me with
19 termination based upon its perception of me as impaired. In this memo my employer
20 disregards my right to informed consent and this memo does not satisfy the
21 requirement to disclose risk/benefit analysis or acknowledge that I have the right to
22 refuse an EUA injection. My employer is responding to me as if I am a "Direct
23 Threat" without relying on any medical diagnosis.

24 13. This same day, I responded with an emailed letter (Exhibit A-4a) I titled
25 "Employment Discrimination and Retaliation Based Upon Disability" which I
26 addressed to Janet Difiore, Lawrence Marks, Justin Barry and Nancy Barry. I alerted
27 all four that I am experiencing discrimination based upon disability and I claimed my
28 rights to informed consent and asked them to remediate themselves to the actual

1 laws regarding due process in matters of Public Health and in Discrimination. This
2 letter also let them know I am documenting the discrimination and I asked them to
3 please review the NY Benchbook Guide compilation of Public Health laws and the
4 due process they require in order to draw their attention to primary need for an actual
5 diagnosis. I also emailed a copy of this letter to my Union President Dennis Quirk.
6 The USPS tracking shows the letters received at the court on September 15, 2021.
7 (Exhibit A-4b)

8 14. Then I contacted Human Resources with an emailed letter (Exhibit A-5a)
9 I titled "Notice of Discrimination and Harassment based upon Disability" as a
10 confidential communication to Carolyn Grimaldi and I forwarded this to Eva Moy in
11 the Office of Managing Inspector General for Bias Matters (OMIGBM) on September
12 14, 2021 to place in my file to document discrimination. I also sent this letter via
13 certified mail to Grimaldi and the tracking shows she received it on September 15,
14 2021. (Exhibit A-5b)

15 15. I intended to officially give my employer notice that I am claiming and
16 documenting discrimination and harassment I am receiving which is based upon it
17 regarding me as having a disability. I asked both offices to create a file for the
18 purpose of documenting the discrimination, harassment and threatened retaliation I
19 am experiencing.

20 16. September 13, 2021 Justin Barry, Chief of Administration writes me
21 (Exhibit A-6) and denies that I am being discriminated against but does not cite any
22 legal basis for his claim.

23 17. On September 16, 2021 Carolyn Grimaldi Human Resources emails
24 (Exhibit A-7) me and claims that she is not responsible for processing employee
25 discrimination complaints and directs me to address Eva Moy, (OMIGBM) and my
26 Union President of the Court Officers Association Dennis Quirk. I have already
27 contacted both of them.
28

18. September 17, 2021 Eva Moy responds (Exhibit A-8) that Inspector General's Office for Bias Matters has "no jurisdiction" for discrimination issues and she will not investigate my claims of discrimination.

19. I asked Ms. Moy to give me the name of the designated employee who handles ADA cases. I received no response from her.

20. On September 20, 2021 I filed a Charge of Discrimination and Harassment (Exhibit A-9) with the EEOC via email and certified mail. The intake person is Hernan Morales (CRTIU Supervisor) and the ADR Supervisor is David Reinman for the New York District Office of the EEOC. I also send a copy of this Charge to Eva Moy, OMIGBM; Carolyn Grimaldi, Human Resources and to the NY State EEOC Division of Human Rights.

21. The same day I emailed an "Amended" version of my "Notice of Discrimination and Harassment Based Upon Disability" (Exhibit A-10). Both Carolyn Grimaldi and Eva Moy have refused to process or investigate my complaint of discrimination. Grimaldi claims she can't put my complaint in my "personnel" file, so I ask her to put my complaint in the appropriate file that can be accessed by the EEOC. Eva Moy told me she does not have the "jurisdiction" to process a discrimination complaint, so I quoted the online poster for the OMIGBM which states that Discrimination Complaints are exactly what her office handles. I ask her to review the poster information and I again ask her to process my complaint. I believe both these employees are interfering with my rights under the ADA by refusing to do an intake or investigate my claim.

22. On September 21, 2021 Carolyn Grimaldi emails me (exhibit A-11) that she is not to be included in any further correspondence on the matter of discrimination and the EEOC filing. I email her back asking who is the legal counsel for the Office of Court Administration.

1 23. On September 23, 2021, Grimaldi provides me the name and contact
2 information for Kelvin Smartt who is an HR administrator and she gives me a phone
3 number for the legal counsel for the Office of Court Administration.

4 24. On September 24, 2021 I email Kelvin Smartt everything that should go
5 in my discrimination documentation file: copies of the EEOC Charge and my "Notice
6 of Discrimination and Harassment Based Upon Disability". I sent him a copy of my
7 Notice to Janet Difiore, Lawrence Marks, Justin Barry, and Nancy Barry. I let him
8 know that Eva Moy has not responded to my latest request for her to process my
9 discrimination complaint and that Grimaldi refuses further contact about this matter.
10 Kelvin Smartt does not respond to me.

11 25. I have taken all the steps I can think of to notice my employer that it is
12 regarding me as disabled with an impaired immune system and an impaired
13 respiratory system, is discriminating against me, harassing me and threatening
14 retaliation and other adverse employment actions. I have not had any agent for
15 NYSUCS respond to me by actually doing an intake. All of these agents refuse to
16 engage my concerns and refuse to assist me. They all have refused to mitigate or
17 even acknowledge the harassment and retaliation I am dealing with which increases
18 my sense of isolation.

19 26. On September 28, 2021, I reported to work at 18 Richmond Terrace. I
20 was handed a letter (Exhibit A-12) by my Lieutenant John Marsh stating I was "unfit
21 to serve" and "non-compliant" and must leave the premises. I am barred from
22 returning unless I receive an experimental vaccine shot. This confirms that my
23 employer is classifying me and retaliating against me for being "unvaccinated"
24 because it regards me as impaired.

25 27. I asked on whose authority am I being removed from my place of
26 employment. He answered "I don't know". I asked John Marsh to go and ask my
27 Captain to come speak to me. My Lieutenant refused. I then made my Lieutenant
28 and the Union Delegate standing near us aware that I have an EEOC complaint and

1 a federal complaint against the office of court administration for an unlawful and
2 discriminatory policy. I mentioned that anyone aiding in enforcing this I consider to be
3 harassing me. I then asked John Marsh and the Union Delegate whether they know
4 of any medical assessment of me which has determined that I am an infectious
5 threat to anyone in this command. They each answered "No." Since there is no end-
6 date to my employer regarding me as disabled and classifying me as "unvaccinated",
7 I am effectively terminated on this date.

8 28. September 29, 2021, in an attempt to avoid being deemed "non-
9 compliant" or "unfit for service", I emailed a notice (Exhibit A-13) I titled "Invocation of
10 Rights under the Americans with Disabilities Act" the following: Chief of Public Safety
11 Michael Magliano, Captain John Bonanno, Janet Difiore, Lawrence Marks, Justin
12 Barry, Nancy Barry, Kelvin Smartt, and Eva Moy. This notice states that I claim my
13 rights to informed consent and to the protection of the ADA and my right to refuse an
14 experimental injection or to be in a clinical trial. I let each know that I am fully
15 responding to all requests asking me to declare why I am not getting injected.

16 29. On October 4, 2021 the New York State Court Officer Association sues
17 and is granted a temporary restraining order effectively putting the office of court
18 administrations mandate on hold. I am able to report into work October 5, 2021 after
19 being barred from premises since September 28, 2021.

20 30. On October 7, 2021, my documented back injury flared-up; I request
21 and receive sick leave to give me some time to heal my back injury.

22 31. October 11, 2021, I emailed CRTIU supervisor Hernan Morales pointing
23 out that 14 days have passed since he received my complaint via certified mail and I
24 have received no notification in writing that my complaint has been filed. I requested
25 an immediate response.

26 32. On October 19, 2021, I download a document (exhibit A-14) from my
27 EEOC portal by Robert Rullan which falsely claims he and I spoke on the phone on
28

1 October 8, 2021. Rullan also dismisses my claim. Interestingly, Eva Moy is copied
2 on this document which shows that the EEOC identified her office as the correct
3 contact for matters of discrimination.

4 33. October 20, 2021, I sent an email (Exhibit A-15) to Rullan's supervisor
5 clarifying that he never spoke with me and that he was falsely claiming that we had a
6 conversation. Shortly after receipt, Rullan called me to apologize for lying. He then
7 told me that he will issue a dismissal and a "Right to Sue" letter.

8 34. October 25, 2021, I received my "Right to Sue" letter from Rullan at the
9 EEOC with an incorrect determination listed. I quickly sent an email to Judy Keenan,
10 Director and Jeffery Bernstein, EEOC attorney, and copied Rullan asking them to
11 investigate Rullan's determination since I am claiming that I am being regarded as
12 disabled and I am claiming that my ADA rights are being interfered with by my
13 employer who is only offering medical and religious exemptions and not offering
14 accommodations under ADA claims. I ask them to review Rullan's work papers and
15 legal conclusions since he does not seem to be aware of the "regarded as" prong. I
16 included the pertinent definition of "regarded as" from the ADA.org website which
17 is: "Does not have any impairment, but is treated by an entity as having an
18 impairment."

19 35. October 27, 2021, Robert Rullan calls me and tells me he will correct the
20 determination letter and send me a revised "Right to Sue" letter. The EEOC closes
21 my case without any investigation. I receive a "Right to Sue" letter from the
22 Department of Justice on December 7th. (Exhibit A-16)

23 36. I send another letter to Captain Bonnano, Kelvin Smartt, Eva Moy and
24 Robert Rullan which I titled "Notice of Timely Response to Retaliation of Being
25 Declared Unfit to Serve and/or Non-compliant Based on Disability". (Exhibit A-17) I
26 state that I have responded in a timely fashion to every request asking me to
27 respond to the injection survey. I let them know that I can not respond using the form
28 letter because it only provides options for claiming a medical or religious exemption

1 which I consider interference with my rights under the ADA. I am responsively
2 objecting to the injections on the basis of rights protected by the ADA since my
3 employer is regarding me as disabled. I ask Smartt to enter my objection into the
4 Sharepoint portal since I am unable to do so. I state that I am fit for work and that I
5 have complied with all requests for information about my status or objection to the
6 EUA injection requests. I receive no replies.

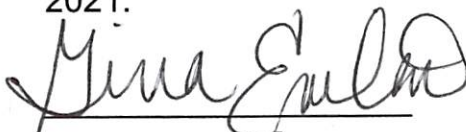
7 37. The documents included with Exhibit A are true and correct copies of the
8 originals.

9 

10 Chris Mone, Affiant

11 STATE OF NEW YORK) Ss
12 COUNTY OF RICHMOND)

13 Subscribed and sworn to before me a notary public this 9th day of December,
14 2021.

15 
16
17 Signature of Notary

[Is]

